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9 UNITED STATES BANKRUPTCY COURT

10 DISTRICT OF NEVADA

11 In re:

12 MEDIZONE INTERNATIONAL, INC.,

13 Debtor.

Case No. BK-S-18-12662-LEB

Chapter 7

**DECLARATION OF
RANDY J. PREBULA SUPPORTING
APPLICATION TO EMPLOY
HOGAN LOVELLS US, LLP, AS
SPECIAL LITIGATION COUNSEL
FOR F.D.A. APPROVAL PROCESS
PURSUANT TO 11 U.S.C. §327(e)**

Hearing Date: July 19, 2018

Hearing Time: 11:00 a.m.

14 I, RANDY J. PREBULA, hereby declare under penalty of perjury as follows:

- 15 1. I am over the age of eighteen and I am competent to make this Declaration. I have
16 personal knowledge of the facts in this matter, except where stated upon information and belief.
- 17 2. I make this Declaration in connection with the Trustee's *Application to Employ*
18 *Cassan Maclean as Special Litigation Counsel for F.D.A. Approval Process Pursuant to 11 U.S.C.*
19 *§327(e)* (the "Application") filed concurrently with this Declaration.
- 20 3. I am an attorney duly admitted to practice in the State of Maryland, and the District
21 of Columbia, and a partner in the law firm of HOGAN LOVELLS US, LLP, which maintains an
22 office at 555 Thirteenth Street, NW, Washington, D.C. 20004.
- 23 4. Lenard E. Schwartz, Chapter 7 Trustee for this bankruptcy estate (the "Trustee"),
24 has asked that our firm provide professional services as set forth in the Trustee's Application. Our
25 firm is experienced and qualified in the matters for which it is to be employed as set forth in the
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SCHWARTZ & MCPHERSON LAW FIRM

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1 Application. My practice is focused on representing clients in the FDA approval process.

2 5. I have been informed that on or about April 18, 2018, creditors Edwin G. Marshall
3 and Dr. Jill C. Marshall (collectively, the "Marshalls"), and creditor Ushio America, Inc. filed an
4 involuntary petition under Chapter 11 the Bankruptcy Code against Debtor MEDIZONE
5 INTERNATIONAL, INC. (the "Debtor") in Reno, Nevada. I have also been informed that on
6 May 8, 2018 (the "Petition Date"), the Debtor filed its own voluntary case pursuant to Chapter 7
7 of the Bankruptcy Code in Las Vegas, Nevada, and the Trustee has been appointed to administer
8 this Chapter 7 estate.

9 6. I am aware that the Trustee has been granted authorization to operate the business
10 for approximately 90 days from June 1, 2018 through August 31, 2018, and has been authorized to
11 borrow up to \$200,000.00 from the Marshalls to fund said operation.

12 7. I am also aware that the Trustee has determined that the assets of the bankruptcy
13 estate include the Debtor's pending application for approval of its technology by the United States
14 Food & Drug Administration (FDA). The Debtor has already made substantial progress through
15 the approval process, and continuing to pursue FDA approval will help maintain the value of the
16 Debtor's assets.

17 8. Up to the Petition Date, the Debtor had employed our firm to help navigate the
18 FDA approval process. This approval process requires participation in an upcoming telephone
19 conference meeting, preparing and submitting meeting notes in a timely manner, and reviewing
20 and responding to any questions or comments issued by the FDA, among other things. The total
21 estimated cost for Hogan Lovells' services during the Trustee's operation of the business is
22 \$14,571.00, and the proposed services are broken down by the various categories listed in the
23 Application at **Exhibit "1."**

24 9. I have been advised that the providers of post-petition financing to the estate, the
25 Marshalls, have considered and support the employment of our firm, and have agreed to advance
26 the sum of USD\$14,500.00 to the firm (the "Advanced Funds") to continue the FDA approval
27 process.

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1 10. Our firm currently asserts an unsecured pre-petition claim for attorney's fees in the
2 sum of approximately USD\$76,595.23 for unpaid pre-petition services, but our firm has
3 determined that (due to their limited role) this does not present a conflict. It is in our firm's
4 interest to help maintain the value of the estate's assets for liquidation.

5 11. Our firm has the advantage of already being extremely familiar with the estate's
6 progress in the FDA approval process, and the firm's work will be limited to moving the approval
7 process forward. The firm is willing and able to begin work immediately upon deposit of the
8 advanced funds (USD\$14,500.00) and filing of the Application.

9 12. The firm acknowledges that payment of any additional amount to the firm will
10 require separate approval by the Trustee, and also by this Court pursuant to 11 U.S.C. §330.

11 13. Proposed Special Counsel will render legal advice and perform legal services to
12 Trustee for assistance with the FDA approval process as detailed in **Exhibit "1."** The sum of
13 USD\$14,500.00 will be paid from an advance by the Marshalls pursuant to the post-petition
14 financing agreement with the Trustee, and will be applied against fees and expenses as they
15 accrue.

16 14. To the best of my knowledge, Proposed Special Counsel is disinterested within the
17 meaning of Section 101(14) of the Bankruptcy Code **except as set forth herein.** Proposed
18 Special Counsel, its shareholders, counsel and associates (a) are not creditors, equity security
19 holders, or insiders of the Debtor; (b) are not and were not, within two years before the date of the
20 debtor's bankruptcy petition, a director, officer, or employee of Debtor; and (c) do not hold an
21 interest materially adverse to the interest of the estate or of any class of creditors or equity holders
22 by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for
23 any other reason, **except as stated herein. In particular, Proposed Special Counsel**
24 **represented the Debtor as counsel in the FDA approval process prior to the Petition Date,**
25 **and has a pre-petition unsecured claim for unpaid fees that may be asserted against the**
26 **bankruptcy estate.**

27 15. To the best of my knowledge, neither Proposed Special Counsel nor any member of
28 Proposed Special Counsel, have any connections with the Debtor, creditors, or any other party in

1 interest, their respective attorneys and accountants, the United States Trustee, or any person
2 employed in the Office of the United States Trustee in this case or in matters upon which Proposed
3 Special Counsel in this case, **except as set forth herein.**

4 16. This Declaration constitutes a verified statement and sets forth, to the best of the
5 declarant's knowledge, the connections, if any, with the Debtor, creditors, any other party in
6 interest, their respective attorneys and accountants, the United States Trustee, or any person
7 employed in the office of the United States Trustee in this case. Proposed Special Counsel will
8 supplement these disclosures in the event further connections are discovered regarding persons or
9 entities that later become identified as appropriate for disclosure.

10 17. To the best of my knowledge, neither Proposed Special Counsel, nor any member
11 of the firm, hold or represent any interest that is adverse to the Debtor or to the estate with respect
12 to the matters for which they are being employed, and they are disinterested pursuant to 11 U.S.C.
13 §101(14) as set forth above.

14 18. Subject to the Court's approval of this Application, Proposed Special Counsel is
15 willing to serve as the Trustee's special counsel to perform the legal services described above and
16 the firm will strive to insure that Proposed Special Counsel's employment will not be duplicative
17 of the role of the Trustee's general bankruptcy counsel, Schwartzer & McPherson Law Firm.

18 19. Proposed Special Counsel and the estate both have a shared interest in maintaining
19 the value of the estate's progress with the FDA approval process, so the interests of the involved
20 parties in this situation are aligned.

21 20. No payments have been made or promised to Proposed Special Counsel for
22 services rendered in any capacity whatsoever in connection with the Chapter 7 Case.

23 21. There is no agreement or understanding between Proposed Special Counsel or any
24 other entity for the sharing of compensation to be received for services rendered in or in
25 connection with this Chapter 7 case. No additional compensation will be paid to Proposed Special
26 Counsel except as authorized by order of this Court, after notice and an opportunity for a hearing.

27 22. Proposed Special Counsel has not received and is not holding any retainer or
28 advance payment for services as Trustee's special litigation counsel in this case.

24. Proposed Special Counsel has extensive experience in the FDA approval process, and is qualified to continue to provide this service. Proposed Special Counsel has already provided extensive service and will continue to assist the Trustee which will result in a substantial benefit to the bankruptcy estate.

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Randy J. Prebula